



W. Reed Gusciora
Mayor

CITY OF TRENTON
DEPARTMENT OF LAW

A. Wesley Bridges, Esq.
Law Director

February 14, 2025

VIA PACER

Hon. Robert Kirsch, U.S.D.J.
United States District Court
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: NJ Weedman v. City of Trenton, (Forchion v. Gusciora)
Case No.: 3:24-cv-10052 -RK-JBD
(Defendant's request to file a motion to dismiss)

Dear Judge Kirsch:

This office represents Defendants in the above-captioned action. Pursuant to Your Honor's rules, the parties met with respect Defendant's request to file a motion to dismiss in an attempt to resolve some or all of the issues.

Defendants' position is that the Amended Complaint should be dismissed pursuant to "*ex dolo malo nonoritur actio*," which provides that "*no court will lend its aid to a man who founds his cause of action upon an immoral or an illegal act*," Pullman's Palace Car Co. v. Central Transp. Co., 171 U.S. 138, 151-52 (1898)(quoting Holman v. Johnson, 1 Cowper 341 (1775)). The United States Supreme Court in Pullman held in relevant part:

[I]n no way and through no channels, directly or indirectly, will the courts allow an action to be maintained for the recovery of property delivered under an illegal contract where, in order to maintain such recovery, it is necessary to have recourse to that contract... courts will not in such endeavor permit any recovery which will weaken the rule founded upon the principles of public policy already noticed.

Ibid.

Plaintiffs' position with respect to that argument is that NJWeedman's Joint LLC, a diner/restaurant, is operating legally. This action is a First Amendment retaliation action and the only reason Plaintiffs amended their complaint is to demonstrate to this Court that the harassing activity was absolutely retaliatory because the Defendant has **admitted that Plaintiff's diner/restaurant was**

operating legally. Defendant has no authority to dismiss the pleading upon allegations of “*an immoral or an illegal act*” or “an illegal contract.” (Supra).

As the parties are unable to resolve this conflict, we respectfully request a case management conference to address Defendants’ request for leave to file a motion to dismiss.

We thank the Court in advance for its anticipated attention to this request.

For Defendant’s position:

Respectfully Submitted,
CITY OF TRENTON LAW DEPARTMENT

By: /s/ Wesley Bridges
A. Wesley Bridges, Esquire

For Plaintiffs’ position:

Respectfully Submitted,
Edward N. Tobias, Esq.
Mario Williams, Esq. (to be admitted *Pro Hac Vice*)

/s Edward N. Tobias (ET4118)
Attorneys for Plaintiff

cc: Clients